



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

as it originally read, by Code of 1919, notwithstanding the amendment of that section in 1916, adopted the construction previously placed upon the section by the courts, that the day on which judgment is rendered is counted as the first of the 60 days within which a bill of exceptions must be filed, and that construction becomes obligatory upon the courts.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 387.]

**4. Courts (§ 80 (4)\*)—Persistently Declared Approval of a Rule Should Not Be Lightly Ignored.**—When a court of last resort has persistently declared approval of a rule of law, it should not be lightly ignored, since it is to the interest of the public that there should be stability in the laws by which they regulate their conduct, so that the construction of Code 1919, § 5, cl. 8, relating to computation of time previously adopted in several cases and which was a fair and reasonable one, should not be discarded, even though the court as constituted would not, as an original proposition, have adopted that construction.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 645.]

**5. Exceptions, Bill of (§ 41 (1)\*)—Limitation of Time to File Is Condition of Right.**—The statute fixing the time within which bills of exceptions must be filed is a limitation on the right to file them at all, and a restriction upon the powers of the trial court, and a failure to file them in time, is a failure to take advantage of a right conferred and is visited with like penalties.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 387.]

Prentis, J., dissenting.

Error to Corporation Court of Norfolk.

Action between one Kelly and one Trehy. Judgment for the latter, and the former brings error. Writ of error dismissed.

*J. S. Barron* and *J. G. Martin*, both of Norfolk, for plaintiff in error.

*John R. Saunders, Atty. Gen.*, for defendant in error.

#### JAMES v. COMMONWEALTH.

June 15, 1922.

[112 S. E. 761.]

**1. Criminal Law (§ 1092 (7)\*)—Bill of Exceptions Must Affirmatively Show It Was Signed in Time.**—In order that a bill of exceptions may be considered, it must affirmatively appear that the bill was signed by the judge of the trial court within the time prescribed by law.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 392.]

**2. Time (§ 9 (7)\*)—After Final Judgment on April 8th, Bill of Ex-**

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**ceptions Signed June 7th Is Too Late.**—Where the final judgment of conviction was entered on April 8th, a bill of exceptions signed June 7th was signed on the sixty-first day and was too late.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 387.]

Error to Circuit Court, York County.

Henry James was convicted of entering in the nighttime, without breaking, the dwelling of another, with intent to commit rape, and he brings error. Writ of error dismissed.

*F. S. Collier and C. V. Spratley*, both of Hampton, and *J. T. Newsome*, of Newport News, for plaintiff in error.

*John R. Saunders, Atty. Gen.*, for the Commonwealth.

---

PORTNER et al. v. PORTNER'S EX'RS et al.

June 15, 1922.

[112 S. E. 762.]

**1. Wills (§ 303 (1)\*)—Evidence of Attesting Witnesses Held to Show Due Execution of the Will.**—Where the will was in due form and was attested by three competent witnesses, one more than the statute requires, and two of the witnesses testified that the will was both signed and acknowledged by the testator in the presence of all three of them, and the other testified it was not signed in his presence, but that he did attest the signature, the evidence clearly preponderated to prove the due execution and acknowledgement of the will, if it did not overwhelmingly prove it, and sustained a verdict finding due execution.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 744.]

**2. Wills (§ 55 (5)\*)—Evidence of Illness Held Not to Show Mental Incapacity.**—Evidence that, prior to the execution of the will, testator had been drinking heavily, and was not only suffering from the effects thereof, but was sick in a hospital when the will was made, but leaving small room to doubt that, when he signed and acknowledged the will, he fully understood what he was doing, is sufficient to sustain a verdict finding he was competent to make a will.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 713.]

**3. Wills (§ 166 (1)\*)—Evidence Held to Sustain Verdict Finding There Was No Undue Influence.**—Where the only direct evidence of undue influence was testimony the beneficiary had declared she had seen to it that testator made a will, which was denied by the beneficiary, and the decided weight of the testimony showed that neither the beneficiary nor her husband knew of the will until after its execution, and the evidence showed sufficient reason for testator disposing of

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.